

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEJON HEMPHILL,

Plaintiff(s),

v.

COUNTY OF SAN BERNARDINO, et al.

Defendant(s).

Case No. 5:24-cv-00825-KK-DTB

CIVIL TRIAL SCHEDULING ORDER

Last Day to Stipulate or File Motion to Amend Pleadings or Add New Parties: 8/15/2024

Fact Discovery Cut-Off (including hearing of discovery motions): 1/10/2025

Last Day to Serve Initial Expert Reports: 1/24/2025

Last Day to Serve Rebuttal Expert Reports: 2/7/2025

Expert Discovery Cut-Off (including hearing of discovery motions): 2/28/2025

Motion Hearing Cut-Off: 4/3/2025

Last Day to Conduct Settlement Proceedings: 4/4/2025

Final Pretrial Conference: 5/15/2025 at 10:30 AM

Jury Trial:
6/2/2025 at 08:30 AM

This case is set for trial before the Honorable Kenly Kiya Kato, 3470 12th Street, 3rd Floor, Courtroom 3, Riverside, CA 92501.

1 **I. MOTIONS**

2 Judge Kato hears motions in civil cases on Thursdays at 9:30 a.m. The cut-off
3 date for hearing motions is the last day on which motions will be heard, i.e., the
4 motion must be filed **at least twenty-eight (28) days** before the deadline in
5 accordance with the requirements of Local Rule 6-1. The motion hearing cut-off
6 date applies to all non-discovery motions except: (1) motions for class certification,
7 which shall be filed in accordance with the deadline set forth in the Court's Civil
8 Standing Order,¹ and (2) motions directly related to the conduct of trial, e.g.,
9 motions in limine and motions to sever parties or bifurcate issues for trial, which
10 shall be properly noticed for hearing no later than the date of the Final Pretrial
11 Conference.

12 All parties and counsel must comply with Local Rule 7-16, which provides:

13 Any moving party who intends to withdraw the motion before the
14 hearing date shall file and serve a withdrawal of the motion, not later
15 than seven (7) days preceding the hearing. Any opposing party who no
16 longer intends to oppose the motion, shall file and serve a withdrawal of
17 the opposition, not later than seven (7) days preceding the hearing.

18 Failure to comply with this notification requirement may result in the imposition of
19 sanctions on the offending counsel or party.

20 **II. DISCOVERY**

21 Counsel shall initiate all discovery other than depositions **at least forty-five**
22 **(45) days before** the cut-off date. The Court will not approve stipulations between
23 counsel which permit responses to be served after the cut-off date except in unusual
24 circumstances and for good cause shown.

25 Counsel are expected to resolve discovery problems without the assistance of
26 the Court. The discovery cut-off is the last date to complete discovery. It is also the

27
28 ¹ The Court's Civil Standing Order is available on Judge Kato's Schedule and
 Procedures webpage at <http://www.cacd.uscourts.gov/honorable-kenly-kiya-kato>.

1 last day for hearing any discovery motion. In addition, any motion challenging the
2 adequacy of responses to discovery must be served and calendared sufficiently in
3 advance of the discovery cut-off date to permit the responses to be obtained before
4 that date, if the motion is granted.

5 **III. SETTLEMENT PROCEDURES**

6 The parties must complete settlement proceedings under the Court-Directed
7 Alternative Dispute Resolution (“ADR”) Program (Local Rule 16-15.4) no later
8 than the date set by the Court above. The parties shall schedule their ADR
9 proceeding as soon as reasonable, but (1) **no later than ninety (90) days prior to**
10 **to the ADR deadline**, if the Court has ordered the parties to participate in ADR
11 Procedure No. 1, and (2) **no later than sixty (60) days after the entry of this**
12 **Order**, if the Court has ordered the parties to participate in ADR Procedure Nos. 2
13 or 3. **Within seven (7) days of scheduling the ADR proceeding**, Plaintiff shall
14 file a Joint Statement confirming that the parties have done so and the date of the
15 proceeding. If the parties desire to participate in an ADR procedure other than that
16 selected in the Rule 26(f) Joint Report and ordered by the Court, they shall file a
17 stipulation with the Court. This request will not necessarily be granted.

18 Plaintiff shall file a Joint Report regarding the outcome of settlement
19 discussions, the likelihood of possible further discussions, and any help the Court
20 may provide with regard to settlement negotiations **no later than seven (7) days**
21 **after** the settlement conference. No case will proceed to trial unless all parties,
22 including the principals of all corporate parties, have appeared personally at a
23 settlement conference and complied with Local Rule 16-15.5.

24 If a settlement is reached, it shall be reported immediately to this Court as
25 required by Local Rule 16-15.7. **In all cases set for jury trial, the parties must**
26 **notify the Court, no later than the Wednesday preceding the Monday trial**
27 **date, of any settlement, so that the necessary arrangements can be made to**
28 **bring in a different case for trial or notify the members of the public who**

1 **would otherwise be reporting for jury duty that their services are no longer
2 needed.**

3 **Failure to comply with this notification requirement may result in the
4 imposition of sanctions on counsel for one or more parties, or their clients, or
5 both.**

6 **Upon receipt of oral or written notice that a case has settled, the Court
7 will administratively close the case and if no agreed final order or judgment
8 is thereafter submitted within thirty (30) days, or if no party files a motion to
9 reopen within such time, the case shall, without further order, stand dismissed
10 with prejudice.**

11 **IV. FINAL PRETRIAL CONFERENCE**

12 The Court will conduct a Final Pretrial Conference pursuant to Federal Rule
13 of Civil Procedure 16 and Local Rule 16-1 on the date and time listed above. Each
14 party appearing in this action shall be represented at the Final Pretrial Conference
15 and at all pretrial meetings by the lead trial counsel. In rare cases where the Pretrial
16 Conference is waived by the Court, counsel must follow Local Rule 16-11. This
17 Court does not exempt pro per parties from the requirements of Local Rule 16.

18 **1. Matters to be Discussed at the Final Pretrial Conference**

19 Counsel shall be prepared to discuss the following matters with the Court at
20 the Final Pretrial Conference:

21 • streamlining the trial, including presentation of testimony by deposition
22 excerpts, time limits, stipulations as to undisputed facts, and qualification
23 of experts by admitted resumes;

24 • the witnesses all parties intend to call during their respective cases, and the
25 amount of time necessary for direct and cross examination of each witness;

26 • any anticipated issues in scheduling witnesses;

27 • any evidentiary issues, including anticipated objections under Rule 403,
28 and objections to exhibits;

- 1 • jury selection procedures;
- 2 • all pretrial motions, including motions in limine, to bifurcate and to sever;
- 3 • any disputed jury instructions, and the form of the instructions which will
- 4 be given to the jury at the outset of the case, i.e., before opening statements
- 5 and presentation of evidence;
- 6 • whether any counsel intends to use any evidence or demonstrative aid in
- 7 opening statement; and
- 8 • who will be seated at counsel table. No attorney shall be permitted to sit at
- 9 counsel table who does not actively participate in trial. The Court strongly
- 10 encourages lead counsel to permit newer attorneys to present argument
- 11 and/or examine witnesses at trial.

12 If counsel for any party need to arrange for the installation of their own
13 equipment, such as video monitors, notebooks, or overhead projectors, counsel
14 shall notify the Courtroom Deputy Clerk (“CRD”) ***no later than 4:00 p.m. seven***
15 ***(7) days before trial*** so that the necessary arrangements can be made.

16 **2. Pretrial Filings**

17 Counsel shall submit carefully prepared Memoranda of Contentions of Fact
18 and Law (which may also serve as the trial briefs) and a proposed Final Pretrial
19 Conference Order in accordance with the provisions of Local Rules 16-4 through
20 16-7. The form of the proposed Final Pretrial Conference Order shall be in
21 conformity with the form set forth in Appendix A to the Local Rules. The filing
22 schedule for pretrial documents is as follows:

23 At least 28 days before final pretrial conference

- 24 • Motions in limine

25 At least 21 days before final pretrial conference

- 26 • Memorandum of contentions of fact and law
- 27 • Joint witness list with time estimates for each witness
- 28 • Joint exhibit list

1 • Oppositions to motions in limine

2 At least 14 days before final pretrial conference

3 • Proposed final pretrial conference order
4 • Stipulation of facts
5 • Joint exhibit stipulation
6 • Deposition designations
7 • Proposed jury instructions, and any objections
8 • Proposed verdict form(s)
9 • Joint statement of the case
10 • Proposed voir dire questions

11 At least 7 days before trial

12 • Trial briefs, if desired

13 **A. Motions in Limine**

14 **Each side is limited to five (5) motions in limine.** Memoranda of Points
15 and Authorities in support of or in opposition to motions in limine shall not exceed
16 ten (10) pages. Replies will not be accepted. Motions in limine shall not be
17 compound, i.e., each motion shall address only one item of evidence or witness. If
18 common grounds for exclusion or admission apply to multiple items of evidence or
19 witnesses, each motion shall address only one category of evidence or witnesses.
20 Motions in limine should not be disguised motions for summary adjudication of
21 issues.

22 **B. Witness List**

23 At least ***twenty-one (21) days before the Final Pretrial Conference***, counsel
24 shall file their joint witness list, which shall include a brief description of each
25 witness's anticipated testimony and time estimates for direct examination and cross
26 examination of each witness. The witness list shall also include a phonetic spelling
27 of each witness's name.

28 On the first day of trial, counsel shall provide three copies of witness lists in

1 the order in which the witnesses may be called to testify. The witness lists shall be
 2 in the following form:

3	Case No.	Case Name:
4	<u>Witness Name</u>	<u>Date Called to Testify</u>
5	1. John Doe	
6	2. Jane Roe	

7

8 **C. Exhibit List, Joint Exhibit Stipulation, and Exhibit Binders**

9 At least ***twenty-one (21) days before the Final Pretrial Conference***, counsel
 10 shall file their Joint Exhibit List.

11 At least ***fourteen (14) days before the Final Pretrial Conference***, counsel
 12 shall file their Joint Exhibit Stipulation, which shall include objections to exhibits,
 13 the basis of the objection, and the offering party's response. Each objection must
 14 include the grounds for the objection (e.g., a Federal Rule of Evidence) and an
 15 explanation of why the disputed exhibit is not admissible. Any blanket or
 16 boilerplate objections to the opposing party's exhibits will be disregarded and
 17 overruled.

18 The parties shall stipulate to the authenticity and foundation of exhibits
 19 whenever possible, and the Joint Exhibit Stipulation shall identify any exhibits to
 20 which authenticity or foundation have not been stipulated and the specific reasons
 21 for the parties' failure to stipulate.

22 At least ***fourteen (14) days before trial***, counsel shall submit their exhibits by
 23 placing them in 3-ring binders that are tabbed down the right side with exhibit
 24 numbers. The exhibits are to be numbered in accordance with Local Rule 26-3. The
 25 spine portion of the binder shall indicate the volume number of the binder. Each
 26 binder shall contain an index of the exhibits included in the volume.

27 Counsel shall prepare three exhibit binders: (1) an original for the CRD, which
 28 shall be tagged with the appropriate exhibit tags in the upper right hand corner of

1 the first page of each exhibit, (2) one copy for the Court, and (3) one copy for the
 2 witness. The three exhibit binders shall be delivered to chambers.

3 The original copy of the exhibits shall be labeled with the Court's exhibit tags.
 4 The parties shall use yellow tags for plaintiff and blue tags for defendant, which
 5 shall be stapled to the front of the exhibit on the upper right corner with the case
 6 number, case name, and exhibit number placed on each tag. Counsel can obtain
 7 exhibit tags at the Clerk's Office, Room 134, 1st Floor, 3470 Twelfth Street,
 8 Riverside.

9 ***On the first day of trial***, counsel shall provide three copies of an exhibit index
 10 to the CRD, in the following form:

11 Case No.	Case Name:		
12 <u>Exhibit No.</u>	<u>Description</u>	<u>Date Identified</u>	<u>Date Admitted</u>
13 3	1/30/2005 Letter from Doe to Roe		

15 ***D. Final Pretrial Conference Order and Stipulation of Facts***

16 At least ***fourteen (14) days before the Final Pretrial Conference***, counsel
 17 shall file a proposed Final Pretrial Conference Order. In drafting the proposed
 18 Final Pretrial Conference Order, counsel shall make a good faith effort to agree
 19 on and set forth as many uncontested facts as possible. Counsel shall file a separate
 20 stipulation of facts identifying the uncontested facts. The Court may read the
 21 uncontested facts to the jury at the start of the trial.

22 In drafting the factual issues in dispute for the proposed Final Pretrial
 23 Conference Order, the issues of fact should track the elements of a claim or defense
 24 upon which the jury would be required to make findings. Counsel should attempt to
 25 state issues in ultimate fact form, not in the form of evidentiary fact issues (i.e.,
 26 “was the defendant negligent?”; “was such negligence the proximate cause of injury
 27 to the plaintiff?”; “was the plaintiff negligent?”; **not**, “was the plaintiff standing on
 28 the corner of 5th and Spring at 10:00 a.m. on May 3?”). Counsel may list sub-issues

1 under the headings of ultimate fact issues, but shall not use this as a device to list
2 disputes over evidentiary matters.

3 Issues of law should state legal issues upon which the Court will be required
4 to rule after the Final Pretrial Conference, including during the trial, and should
5 not list ultimate fact issues to be submitted to the trier of fact.

6 **E. Deposition Designations**

7 At least ***fourteen (14) days before the Final Pretrial Conference***, counsel
8 shall lodge any deposition(s) that they intend to use at trial. Counsel shall identify
9 on the deposition transcript(s) the testimony the party intends to offer and whether
10 the testimony will be offered for impeachment or in lieu of live testimony. In
11 addition, for testimony that will be offered in lieu of live testimony, counsel shall
12 identify any objections to the proffered evidence in the margins of the deposition
13 by briefly providing the ground for the objection and the response to the objection.

14 **F. Jury Instructions and Verdict Form(s)**

15 At least ***fourteen (14) days before the Rule 16-2 Meeting of Counsel***,
16 counsel shall exchange proposed jury instructions and verdict form(s). ***Seven (7)***
17 ***days before to the Rule 16-2 meeting***, counsel shall exchange any objections to
18 the instructions and verdict form(s). Prior to or at the time of the Rule 16-2
19 meeting, counsel shall meet and confer with the goal of reaching agreement as to
20 one set of joint, undisputed jury instructions and one joint, undisputed verdict form
21 or set of verdict forms.

22 At least ***fourteen (14) days before the Final Pretrial Conference***, the parties
23 shall file proposed jury instructions and proposed verdict form(s). In addition to
24 filing the agreed-upon and disputed jury instructions and proposed verdict form(s),
25 the parties must submit electronic versions (Word format) of both the agreed-
26 upon and disputed jury instructions and the proposed verdict form(s) to the Court
27 at the following e-mail address: kk_chambers@cacd.uscourts.gov.

28 As noted above, the parties must act jointly to submit proposed jury

1 instructions. The parties must submit one set of agreed-upon jury instructions. The
2 parties must also submit a disputed set of jury instructions containing the
3 instructions upon which the parties disagree. If applicable, the disputed jury
4 instructions shall include redlined edits of the language over which the parties
5 disagree. The party opposing the instruction must attach a short (i.e., one to two
6 paragraphs) statement supporting the objection and the party submitting the
7 instruction must attach a short statement supporting the instruction. Each statement
8 should be on a separate page and should follow directly after the disputed
9 instruction.

10 Accordingly, the parties ultimately will submit one document of jury
11 instructions or, if the parties disagree over any proposed jury instructions, two
12 documents. If the parties submit two documents, those documents should consist
13 of: (1) a set of agreed-upon jury instructions, and (2) a set of disputed, redlined
14 jury instructions along with reasons supporting and opposing each disputed
15 instruction.

16 Where the ***Manual of Model Civil Jury Instructions for the Ninth Circuit***
17 (***2017 edition***) provides a version of a requested instruction, the parties should
18 submit the Model instruction. Where California law applies, the Court prefers
19 counsel to use the ***Judicial Council of California, Civil Instructions*** (“CACI”).
20 If neither of the above sources has an instruction on the subject, counsel are
21 directed to consult the current edition of ***O’Malley, et al., Federal Jury Practice***
22 ***and Instructions***. Each requested instruction shall (a) cite the authority or source
23 of the instruction, (b) be set forth in full, (c) be on a separate page, (d) be
24 numbered, (e) cover only one subject or principle of law, and (f) not repeat
25 principles of law contained in any other requested instruction.

26 An index page shall accompany all jury instructions submitted. The index
27 page shall indicate the following:

28 • The number of the instruction;

- 1 • A brief title of the instruction;
- 2 • The source of the instruction and any relevant case citations; and
- 3 • The page number of the instruction.

4 Example:

<u>Number</u>	<u>Title</u>	<u>Source</u>	<u>Page</u>
1	Burden of Proof	9th Cir. 12.02	7

8 In addition to the jury instructions, the parties shall submit their proposed
9 verdict form(s). If the parties cannot agree on a proposed verdict form or set of
10 verdict forms, the parties must jointly submit their proposed verdict form(s) with
11 redlines noting any disputed language.

12 **G. Joint Statement of the Case and Voir Dire**

13 At least ***fourteen (14) days before the Final Pretrial Conference***, each
14 counsel must file any proposed voir dire questions to be asked of prospective
15 jurors. Counsel shall also prepare a joint statement of the case which will be read
16 by the Court to the prospective panel of jurors prior to the commencement of voir
17 dire. The statement should not be longer than two or three paragraphs and shall
18 not exceed one page. The parties must submit an electronic version (Word format)
19 to the Court at the following e-mail address: kk_chambers@cacd.uscourts.gov.

20 **H. Court Reporter**

21 At least ***seven (7) days before trial***, counsel for the parties shall provide the
22 court reporter with a list of unusual words, phrases, and spellings that may come
23 up during trial. This information should be emailed to the CRD at
24 kk_chambers@cacd.uscourts.gov.

25 **V. TRIAL**

26 The Court sets firm trial dates. Counsel shall arrive at the courtroom ***not later***
27 ***than half an hour before the start of trial*** each day of trial. The Court reserves
28 that time to handle legal and administrative matters outside the presence of the jury.

1 Counsel shall anticipate matters that may need discussion or hearing outside the
2 presence of the jury and raise them during this period.

3 Trials are generally conducted Monday through Friday. The Court will adopt
4 a particular time schedule on a case-by-case basis. In general, the schedule will be:
5 (i) from 8:30 a.m. to 2:30 p.m. with two or three 20-minute breaks; or (ii) from
6 9:00 a.m. to 4:30 p.m., with a 15-minute break in both the morning and the
7 afternoon, and a one-hour lunch break. In most cases, jury selection is completed
8 on the first morning of trial, and counsel should be prepared to give opening
9 statements and begin presentation of evidence immediately thereafter.

10 All counsel are asked to observe the following practices during trial:

- 11 1. All counsel, defendants, and parties shall rise when the jury enters and
12 leaves the courtroom.
- 13 2. Counsel shall stand when addressing the Court, including when
14 objecting to opposing counsel's questions.
- 15 3. When objecting, counsel shall stand and should state only "objection,"
16 and the legal ground for the objection (e.g., hearsay, irrelevant, etc.).
17 Counsel should refrain from arguing the legal basis for the objection
18 unless permission is granted to do so.
- 19 4. Counsel must seek leave to approach the CRD or the witness, and
20 should question witnesses while standing at the lectern.
- 21 5. Counsel should not address or refer to witnesses or parties by first
22 names alone, with the exception of witnesses under 14 years old.
- 23 6. The Court will establish time limits for opening statements and closing
24 arguments and the presentation of each party's case. The Court
25 strictly enforces the set time limits.
- 26 7. Counsel shall not discuss the law or argue the case in opening
27 statements.
- 28 8. Counsel shall address all remarks to the Court and should not directly

1 address the CRD, the Court Reporter, opposing counsel, or the jury
2 (except in opening statement and closing argument). Counsel must ask
3 the Court for permission to speak off the record in order to speak with
4 opposing counsel.

5 9. Counsel shall not make an offer of stipulation unless Counsel has
6 conferred with opposing counsel and believes that the stipulation will
7 be accepted. Any stipulation of fact will require the opposing party's
8 concurrence and shall be submitted to the Court in writing for approval.

9 10. While Court is in session, counsel may not leave the counsel table to
10 confer with witnesses, colleagues, or assistants in the back of the
11 courtroom unless the Court grants permission to do so in advance.

12 11. Where a party has more than one lawyer, only one may conduct the
13 direct or cross-examination of a particular witness, or make objections
14 as to that witness.

15 12. If a witness was on the stand before a recess or adjournment, counsel
16 shall have the witness back on the stand and ready to proceed when
17 Court resumes.

18 13. If there is more than a brief delay between witnesses, the Court may
19 deem that the party has rested.

20 14. The Court attempts to cooperate with witnesses and will, except in
21 extraordinary circumstances, accommodate them by permitting them
22 to be examined out of sequence. Counsel should discuss any
23 scheduling issues with opposing counsel. If there is an objection,
24 counsel shall confer with the Court in advance.

25 15. Counsel shall not make facial expressions, nod, or shake their heads,
26 or comment or otherwise exhibit in any way any agreement,
27 disagreement, or other opinion or belief concerning the testimony of a
28 witness. Counsel shall admonish their clients and witnesses not to

1 engage in such conduct.

2 16. Counsel should not talk to jurors at all, and should not talk to co-
3 counsel, opposing counsel, witnesses, or clients where the conversation
4 may be overheard by jurors. Each counsel should admonish counsel's
5 own clients and witnesses to avoid such conduct. Counsel should not
6 speak with courthouse personnel regarding the trial, jury deliberations,
7 or where the jury stands. Each counsel should admonish counsel's
8 clients, witnesses, and agents not to engage in such conduct. If any
9 team should inadvertently become aware of jury information, including
10 where the jury stands during deliberations, such information, shall not
11 be repeated to anyone without permission of the Court. The parties
12 should immediately notify the Court of such disclosure.

13 17. Counsel must notify the CRD in advance if any witness should be
14 accommodated based on the Americans with Disabilities Act or for
15 other reasons.

16 **VI. WEBSITE**

17 Counsel are encouraged to review the Central District's website for additional
18 information: <https://www.cacd.uscourts.gov>.

19 The CRD is ordered to serve a copy of the Order personally, electronically, or
20 by mail on counsel for all parties to this action.

21
22 **IT IS SO ORDERED.**

23
24 Dated: July 18, 2024



25
26 HONORABLE KENLY KIYA KATO
27 United States District Judge
28